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July 23, 2024

Via ECF

The Honorable Nelson S. Román  
United States District Judge for the  
Southern District of New York  
300 Quarropas Street  
White Plains, NY 10601

New York, NY 10007

Re: CBC Settlement Funding, LLC, v. Everlake Assignment Co., et al.  
Docket No.: 24-cv-4668

Dear Judge Román:

We represent the Plaintiff, CBC Settlement Funding, LLC, in the above-referenced matter. We write, in accordance with Rule 3(A)(ii) of Your Honor's Individual Rules, to respectfully request a pre-motion conference in connection with Plaintiff's previously filed petition seeking relief pursuant to 26 U.S.C.A. §5891 / I.R.C. §5891 (the "**Federal Statute**") and New York's The Structured Settlement Protection Act, Gen. Oblig. Law §5-1701 *et seq.* (the "**NY Act**" and/or the "**SSPA**") (the "**Federal Statute**" and the "**NY Act**" / "**SSPA**" collectively referred to as the "**Applicable Acts**"), seeking approval of the sale and transfer of certain structured settlement payment rights due under a structured settlement agreement, in accordance with the Applicable Acts.

Essentially, Plaintiff's motion seeks permission for Defendant Demirar Lowery, (the "Transferor" or "Payee") to sell, assign and transfer to the Plaintiff, CBC Settlement Funding, LLC, its successors and/or assigns, certain payments remaining under their structured settlement agreement pursuant to the terms of a "transfer agreement" as defined in Gen. Oblig. Law §5-1701(r).

The proposed transfer seeks approval, as authorized by the Applicable Acts, for the sale and transfer of the following structured settlement payment rights (periodic payments): one hundred twenty (120) monthly payments of \$2,200.00, beginning with the payment due and payable on or about August 1, 2039, continuing through to and including the payment due and payable on or about July 1, 2049.

Ms. Lowery, upon information and belief, became a beneficiary of certain structured settlement payments, which provided for a series of deferred cash payments under a "structured settlement" as defined in Gen. Oblig. Law §5-1701(l) and 26 U.S.C. §5891(c)(1).



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Upon information and belief, the structured settlement was the subject of a “qualified assignment”, pursuant to Internal Revenue Code §§104 and 130, 26 U.S.C. §§104 and 130, as a result of which defendant Everlake Assignment Company f/k/a Allstate Assignment Company (“Everlake”), assumed the liabilities of the structured settlement obligor to make the payments provided for under the structured settlement.

Upon information and belief, the Structured Settlement Obligor funded its obligation to make the structured settlement payments through the purchase of a certain annuity contract/policy (the “Annuity”) from Annuity Issuer, defendant Wilton Reassurance Life Company of New York f/k/a Allstate Life Insurance Company of New York (“Wilton”), whereby the Payee became entitled to receive certain structured settlement payment rights.

Plaintiff must obtain this Court’s approval for the proposed transfer. Pursuant to 26 U.S.C. §5891(a), any transfer of structured settlement payment rights pursuant to a transfer agreement entered into after July 1, 2002, subjects the transferee (i.e., the purchaser of the structured settlement payment rights) to an excise tax unless the transfer has been approved by, inter alia, a court of the state in which the Payee of the structured settlement is domiciled through the issuance of a “qualified order,” which is defined as an order issued pursuant to the terms of a statute regulating the transfer of structured settlement transfer rights enacted by the state in which the Payee(s) is/are domiciled or the settled case was litigated. The SSPA, Gen. Oblig. Law §5-1701 et seq., is such a statute.

Jurisdiction exists in the United States District Court for the Southern District of New York because this is the “court which approved the structured settlement agreement” in an action styled as “*Velda Lowery, et al v. Ossining Union Free School District, et al*”, Civil Case No. 02 Civ. 8350 (JSR). See Gen. Oblig. Law §5-1705(b)(ii). See also 26 U.S.C.A. §5891 / I.R.C. §5891. Jurisdiction also exists in this Court under 26 U.S.C. §1332(a)(1) because: i) The amount in controversy and/or at issue in this matter exceeds the sum or value of \$75,000.00; ii) Plaintiff is a citizen of, and maintains its principle offices in, a state (Pennsylvania) different from that of at least one Defendant; iii) Upon information and belief, Defendant, Demirar Lowery, is a citizen of, and resides in, the State of New York; iv) Upon information and belief, Defendants, Everlake and Wilton, are citizens of, and maintain their principle offices in, the State of Illinois.

Accordingly, we respectfully request that the Court grant Plaintiff permission to file a motion on these issues. We thank the Court for its time and attention to this matter.

Respectfully submitted,  
**Sacco & Fillas, LLP**  
/s/ Patricia R. Lynch  
 Patricia R. Lynch, Esq.

cc: All Counsel of Record (via ECF and email: ISchwartzburg@cozen.com)  
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